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*§ 301.6104(d)-2 Making applications and returns widely available.*

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[T.D. 8861, 65 FR 2033, Jan. 13, 2000]

**§ 301.6104(d)-1 Public inspection and distribution of applications for tax exemption and annual information returns of tax-exempt organizations.**

(a) *In general.* Except as otherwise provided in this section, if a tax-exempt organization (as defined in paragraph (b)(1) of this section) filed an ap-

plication for recognition of exemption under section 501, it shall make its application for tax exemption (as defined in paragraph (b)(3) of this section) available for public inspection without charge at its principal, regional and district offices during regular business hours. Except as otherwise provided in this section, a tax-exempt organization shall make its annual information returns (as defined in paragraph (b)(4) of this section) available for public inspection without charge in the same offices during regular business hours. Each annual information return shall be made available for a period of three years beginning on the date the return is required to be filed (determined with regard to any extension of time for filing) or is actually filed, whichever is later. In addition, except as provided in §§ 301.6104(d)-2 and 301.6104(d)-3, an organization shall provide a copy without charge, other than a reasonable fee for reproduction and actual postage costs, of all or any part of any application or return required to be made available for public inspection under this paragraph to any individual who makes a request for such copy in person or in writing. See paragraph (d)(3) of this section for rules relating to fees for copies.

(b) *Definitions.* For purposes of applying the provisions of section 6104(d), this section and §§ 301.6104(d)-2 and 301.6104(d)-3, the following definitions apply:

(1) *Tax-exempt organization.* The term *tax-exempt organization* means any organization that is described in section 501(c) or section 501(d) and is exempt from taxation under section 501(a). The term *tax-exempt organization* also includes any nonexempt charitable trust described in section 4947(a)(1) or nonexempt private foundation that is subject to the reporting requirements of section 6033 pursuant to section 6033(d).

(2) *Private foundation.* The term *private foundation* means a private foundation as defined in section 509(a) or a nonexempt charitable trust described in section 4947(a)(1) or a nonexempt private foundation subject to the information reporting requirements of section 6033 pursuant to section 6033(d).

(3) *Application for tax exemption*—(i) *In general.* Except as described in paragraph (b)(3)(iii) of this section, the term *application for tax exemption* includes any prescribed application form (such as Form 1023 or Form 1024), all documents and statements the Internal Revenue Service requires an applicant to file with the form, any statement or other supporting document submitted by an organization in support of its application, and any letter or other document issued by the Internal Revenue Service concerning the application (such as a favorable determination letter or a list of questions from the Internal Revenue Service about the application). For example, a legal brief submitted in support of an application, or a response to questions from the Internal Revenue Service during the application process, is part of an application for tax exemption.

(ii) *No prescribed application form.* If no form is prescribed for an organization's application for tax exemption, the application for tax exemption includes—

(A) The application letter and copy of the articles of incorporation, declaration of trust, or other similar instrument that sets forth the permitted powers or activities of the organization;

(B) The organization's bylaws or other code of regulations;

(C) The organization's latest financial statements showing assets, liabilities, receipts and disbursements;

(D) Statements describing the character of the organization, the purpose for which it was organized, and its actual activities;

(E) Statements showing the sources of the organization's income and receipts and their disposition; and

(F) Any other statements or documents the Internal Revenue Service required the organization to file with, or that the organization submitted in support of, the application letter.

(iii) *Exceptions.* The term *application for tax exemption* does not include—

(A) Any application for tax exemption filed by an organization that the Internal Revenue Service has not yet recognized, on the basis of the application, as exempt from taxation under section 501 for any taxable year;

(B) Any application for tax exemption filed before July 15, 1987, unless the organization filing the application had a copy of the application on July 15, 1987;

(C) In the case of a tax-exempt organization other than a private foundation, the name and address of any contributor to the organization; or

(D) Any material, including the material listed in § 301.6104(a)-1(i) and information that the Secretary would be required to withhold from public inspection, that is not available for public inspection under section 6104.

(iv) *Local or subordinate organizations.* For rules relating to applications for tax exemption of local or subordinate organizations, see paragraph (f)(1) of this section.

(4) *Annual information return*—(i) *In general.* Except as described in paragraph (b)(4)(ii) of this section, the term *annual information return* includes an exact copy of any return filed by a tax-exempt organization pursuant to section 6033. It also includes any amended return the organization files with the Internal Revenue Service after the date the original return is filed. Returns filed pursuant to section 6033 include Form 990, Return of Organization Exempt From Income Tax, Form 990-PF, Return of Private Foundation, or any other version of Form 990 (such as Forms 990-EZ or 990-BL, except Form 990-T) and Form 1065. Each copy of a return must include all information furnished to the Internal Revenue Service on the return, as well as all schedules, attachments and supporting documents. For example, in the case of a Form 990, the copy must include Schedule A of Form 990 (containing supplementary information on section 501(c)(3) organizations), and those parts of the return that show compensation paid to specific persons (currently, Part V of Form 990 and Parts I and II of Schedule A of Form 990).

(ii) *Exceptions.* The term *annual information return* does not include Schedule A of Form 990-BL, Form 990-T, Exempt Organization Business Income Tax Return, Schedule K-1 of Form 1065 or

Form 1120-POL, U.S. Income Tax Return For Certain Political Organizations. In the case of a tax-exempt organization other than a private foundation, the term *annual information return* does not include the name and address of any contributor to the organization.

(iii) *Returns more than 3 years old.* The term *annual information return* does not include any return after the expiration of 3 years from the date the return is required to be filed (including any extension of time that has been granted for filing such return) or is actually filed, whichever is later. If an organization files an amended return, however, the amended return must be made available for a period of 3 years beginning on the date it is filed with the Internal Revenue Service.

(iv) *Local or subordinate organizations.* For rules relating to annual information returns of local or subordinate organizations, see paragraph (f)(2) of this section.

(5) *Regional or district offices*—(i) *In general.* A regional or district office is any office of a tax-exempt organization, other than its principal office, that has paid employees, whether part-time or full-time, whose aggregate number of paid hours a week are normally at least 120.

(ii) *Site not considered a regional or district office.* A site is not considered a regional or district office, however, if—

(A) The only services provided at the site further exempt purposes (such as day care, health care or scientific or medical research); and

(B) The site does not serve as an office for management staff, other than managers who are involved solely in managing the exempt function activities at the site.

(c) *Special rules relating to public inspection*—(1) *Permissible conditions on public inspection.* A tax-exempt organization may have an employee present in the room during an inspection. The organization, however, must allow the individual conducting the inspection to take notes freely during the inspection. If the individual provides photocopying equipment at the place of inspection, the organization must allow the individual to photocopy the document at no charge.

(2) *Organizations that do not maintain permanent offices.* If a tax-exempt organization does not maintain a permanent office, the organization shall comply with the public inspection requirements of paragraph (a) of this section by making its application for tax exemption and its annual information returns, as applicable, available for inspection at a reasonable location of its choice. Such an organization shall permit public inspection within a reasonable amount of time after receiving a request for inspection (normally not more than 2 weeks) and at a reasonable time of day. At the organization's option, it may mail, within 2 weeks of receiving the request, a copy of its application for tax exemption and annual information returns to the requester in lieu of allowing an inspection. The organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. An organization that has a permanent office, but has no office hours or very limited hours during certain times of the year, shall make its documents available during those periods when office hours are limited or not available as though it were an organization without a permanent office.

(d) *Special rules relating to copies*—(1) *Time and place for providing copies in response to requests made in-person*—(i) *In general.* Except as provided in paragraph (d)(1)(iii) of this section, a tax-exempt organization shall provide copies of the documents it is required to provide under section 6104(d) in response to a request made in person at its principal, regional and district offices during regular business hours. Except as provided in paragraph (d)(1)(ii) of this section, an organization shall provide such copies to a requester on the day the request is made.

(ii) *Unusual circumstances.* In the case of an in-person request, where unusual circumstances exist such that fulfilling the request on the same business day places an unreasonable burden on the tax-exempt organization, the organization must provide the copies no later than the next business day following the day that the unusual circumstances cease to exist or the fifth business day after the date of the request, whichever occurs first. Unusual

circumstances include, but are not limited to, receipt of a volume of requests that exceeds the organization's daily capacity to make copies; requests received shortly before the end of regular business hours that require an extensive amount of copying; or requests received on a day when the organization's managerial staff capable of fulfilling the request is conducting special duties, such as student registration or attending an off-site meeting or convention, rather than its regular administrative duties.

(iii) *Agents for providing copies.* A principal, regional or district office of a tax-exempt organization subject to the requirements of this section may retain a local agent to process requests made in person for copies of its documents. A local agent must be located within reasonable proximity of the applicable office. A local agent that receives a request made in person for copies must provide the copies within the time limits and under the conditions that apply to the organization itself. For example, a local agent generally must provide a copy to a requester on the day the agent receives the request. When a principal, regional or district office of a tax-exempt organization using a local agent receives a request made in person for a copy, it must immediately provide the name, address and telephone number of the local agent to the requester. An organization that provides this information is not required to respond further to the requester. However, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 continue to apply to the tax-exempt organization if the organization's local agent fails to provide the documents as required under section 6104(d).

(2) *Request for copies in writing—(i) In general.* A tax-exempt organization must honor a written request for a copy of documents (or the requested part) that the organization is required to provide under section 6104(d) if the request—

(A) Is addressed to, and delivered by mail, electronic mail, facsimile, or a private delivery service as defined in section 7502(f) to a principal, regional or district office of the organization; and

(B) Sets forth the address to which the copy of the documents should be sent.

(ii) *Time and manner of fulfilling written requests—(A) In general.* A tax-exempt organization receiving a written request for a copy shall mail the copy of the requested documents (or the requested parts of documents) within 30 days from the date it receives the request. However, if a tax-exempt organization requires payment in advance, it is only required to provide the copies within 30 days from the date it receives payment. For rules relating to payment, see paragraph (d)(3) of this section. In the absence of evidence to the contrary, a request or payment that is mailed shall be deemed to be received by an organization 7 days after the date of the postmark. A request that is transmitted to the organization by electronic mail or facsimile shall be deemed received the day the request is transmitted successfully. If an organization requiring payment in advance receives a written request without payment or with an insufficient payment, the organization must, within 7 days from the date it receives the request, notify the requester of its prepayment policy and the amount due. A copy is deemed provided on the date of the postmark or private delivery mark (or if sent by certified or registered mail, the date of registration or the date of the postmark on the sender's receipt). If an individual making a request consents, a tax-exempt organization may provide a copy of the requested document exclusively by electronic mail. In such case, the material is provided on the date the organization successfully transmits the electronic mail.

(B) *Request for a copy of parts of document.* A tax-exempt organization must fulfill a request for a copy of the organization's entire application for tax exemption or annual information return or any specific part or schedule of its application or return. A request for a copy of less than the entire application or less than the entire return must specifically identify the requested part or schedule.

(C) *Agents for providing copies.* A tax-exempt organization subject to the requirements of this section may retain an agent to process written requests

for copies of its documents. The agent shall provide the copies within the time limits and under the conditions that apply to the organization itself. For example, if the organization received the request first (*e.g.*, before the agent), the deadline for providing a copy in response to a request shall be determined by reference to when the organization received the request, not when the agent received the request. An organization that transfers a request for a copy to such an agent is not required to respond further to the request. If the organization's agent fails to provide the documents as required under section 6104(d), however, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 continue to apply to the tax-exempt organization.

(3) *Fees for copies*—(i) *In general.* A tax-exempt organization may charge a reasonable fee for providing copies. A fee is reasonable only if it is no more than the total of the applicable per-page copying charge prescribed by the fee schedule promulgated pursuant to section (a)(4)(A)(i) of the Freedom of Information Act, 5 U.S.C. 552, by the Commissioner from time to time, and the actual postage costs incurred by the organization to send the copies. The applicable per-page copying charge shall be determined without regard to any applicable fee exclusion provided in the fee schedule for an initial or *de minimis* number of pages (*e.g.* the first 100 pages). Before the organization provides the documents, it may require that the individual requesting copies of the documents pay the fee. If the organization has provided an individual making a request with notice of the fee, and the individual does not pay the fee within 30 days, or if the individual pays the fee by check and the check does not clear upon deposit, the organization may disregard the request.

(ii) *Form of payment*—(A) *Request made in person.* If a tax-exempt organization charges a fee for copying (as permitted under paragraph (d)(3)(i) of this section), it shall accept payment by cash and money order for requests made in person. The organization may accept other forms of payment, such as credit cards and personal checks.

(B) *Request made in writing.* If a tax-exempt organization charges a fee for

copying and postage (as permitted under paragraph (d)(3)(i) of this section), it shall accept payment by certified check, money order, and either personal check or credit card for requests made in writing. The organization may accept other forms of payment.

(iii) *Avoidance of unexpected fees.* Where a tax-exempt organization does not require prepayment and a requester does not enclose payment with a request, an organization must receive consent from a requester before providing copies for which the fee charged for copying and postage exceeds \$20.

(iv) *Responding to inquiries of fees charged.* In order to facilitate a requester's ability to receive copies promptly, a tax-exempt organization shall respond to any questions from potential requesters concerning its fees for copying and postage. For example, the organization shall inform the requester of its charge for copying and mailing its application for exemption and each annual information return, with and without attachments, so that a requester may include payment with the request for copies.

(e) *Documents to be provided by regional and district offices.* Except as otherwise provided, a regional or district office of a tax-exempt organization must satisfy the same rules as the principal office with respect to allowing public inspection and providing copies of its application for tax exemption and annual information returns. A regional or district office is not required, however, to make its annual information return available for inspection or to provide copies until 30 days after the date the return is required to be filed (including any extension of time that is granted for filing such return) or is actually filed, whichever is later.

(f) *Documents to be provided by local and subordinate organizations*—(1) *Applications for tax exemption.* Except as otherwise provided, a tax-exempt organization that did not file its own application for tax exemption (because it is a local or subordinate organization covered by a group exemption letter referred to in §1.508-1 of this chapter) must, upon request, make available for public inspection, or provide copies of,

the application submitted to the Internal Revenue Service by the central or parent organization to obtain the group exemption letter and those documents which were submitted by the central or parent organization to include the local or subordinate organization in the group exemption letter. However, if the central or parent organization submits to the Internal Revenue Service a list or directory of local or subordinate organizations covered by the group exemption letter, the local or subordinate organization is required to provide only the application for the group exemption ruling and the pages of the list or directory that specifically refer to it. The local or subordinate organization shall permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day. In a case where the requester seeks inspection, the local or subordinate organization may mail a copy of the applicable documents to the requester within the same time period in lieu of allowing an inspection. In such a case, the organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. If the local or subordinate organization receives a written request for a copy of its application for tax exemption, it must fulfill the request in the time and manner specified in paragraph (d)(2) of this section. The requester has the option of requesting from the central or parent organization, at its principal office, inspection or copies of the application for group exemption and the material submitted by the central or parent organization to include a local or subordinate organization in the group ruling. If the central or parent organization submits to the Internal Revenue Service a list or directory of local or subordinate organizations covered by the group exemption letter, it must make such list or directory available for public inspection, but it is required to provide copies only of those pages of the list or directory that refer to particular local or subordinate organizations specified by the requester.

The central or parent organization must fulfill such requests in the time and manner specified in paragraphs (c) and (d) of this section.

(2) *Annual information returns.* A local or subordinate organization that does not file its own annual information return (because it is affiliated with a central or parent organization that files a group return pursuant to § 1.6033-2(d) of this chapter) must, upon request, make available for public inspection, or provide copies of, the group returns filed by the central or parent organization. However, if the group return includes separate schedules with respect to each local or subordinate organization included in the group return, the local or subordinate organization receiving the request may omit any schedules relating only to other organizations included in the group return. The local or subordinate organization shall permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day. In a case where the requester seeks inspection, the local or subordinate organization may mail a copy of the applicable documents to the requester within the same time period in lieu of allowing an inspection. In such a case, the organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. If the local or subordinate organization receives a written request for a copy of its annual information return, it must fulfill the request by providing a copy of the group return in the time and manner specified in paragraph (d)(2) of this section. The requester has the option of requesting from the central or parent organization, at its principal office, inspection or copies of group returns filed by the central or parent organization. The central or parent organization must fulfill such requests in the time and manner specified in paragraphs (c) and (d) of this section.

(3) *Failure to comply.* If an organization fails to comply with the requirements specified in this paragraph, the penalty provisions of sections

6652(c)(1)(C), 6652(c)(1)(D), and 6685 apply.

(g) *Failure to comply with public inspection or copying requirements.* If a tax-exempt organization denies an individual's request for inspection or a copy of an application for tax exemption or an annual information return as required under this section, and the individual wants to alert the Internal Revenue Service to the possible need for enforcement action, the individual may provide a statement to the district director for the key district in which the applicable tax-exempt organization's principal office is located (or such other person as the Commissioner may designate) that describes the reason why the individual believes the denial was in violation of the requirements of section 6104(d).

(h) *Effective date*—(1) *In general.* For a tax-exempt organization, other than a private foundation, this section is applicable June 8, 1999. For a private foundation, this section is applicable (except as provided in paragraph (h)(2) of this section) beginning March 13, 2000.

(2) *Private foundation annual information returns.* This section does not apply to any private foundation return the due date for which (determined with regard to any extension of time for filing) is before the applicable date for private foundations specified in paragraph (h)(1) of this section.

[T.D. 8818, 64 FR 17285, Apr. 9, 1999. Redesignated and amended by T.D. 8861, 65 FR 2033, 2034, Jan. 13, 2000, as amended by T.D. 9070, 68 FR 40769, July 9, 2003]

#### **§ 301.6104(d)-2 Making applications and returns widely available.**

(a) *In general.* A tax-exempt organization is not required to comply with a request for a copy of its application for tax exemption or an annual information return pursuant to § 301.6104(d)-1(a) if the organization has made the requested document widely available in accordance with paragraph (b) of this section. An organization that makes its application for tax exemption and/or annual information return widely available must nevertheless make the document available for public inspection as required under § 301.6104(d)-1(a), as applicable.

(b) *Widely available*—(1) *In general.* A tax-exempt organization makes its application for tax exemption and/or an annual information return widely available if the organization complies with the requirements specified in paragraph (b)(2) of this section, and if the organization satisfies the requirements of paragraph (d) of this section.

(2) *Internet posting*—(i) *In general.* A tax-exempt organization can make its application for tax exemption and/or an annual information return widely available by posting the document on a World Wide Web page that the tax-exempt organization establishes and maintains or by having the document posted, as part of a database of similar documents of other tax-exempt organizations, on a World Wide Web page established and maintained by another entity. The document will be considered widely available only if—

(A) the World Wide Web page through which it is available clearly informs readers that the document is available and provides instructions for downloading it;

(B) the document is posted in a format that, when accessed, downloaded, viewed and printed in hard copy, exactly reproduces the image of the application for tax exemption or annual information return as it was originally filed with the Internal Revenue Service, except for any information permitted by statute to be withheld from public disclosure. (See section 6104(d)(3) and § 301.6104(d)-3(b)(3) and (4)); and

(C) any individual with access to the Internet can access, download, view and print the document without special computer hardware or software required for that format (other than software that is readily available to members of the public without payment of any fee) and without payment of a fee to the tax-exempt organization or to another entity maintaining the World Wide Web page.

(ii) *Transition rule.* A tax-exempt organization that posted its application for tax exemption or its annual information returns on a World Wide Web page on or before April 9, 1999 in a manner consistent with regulation project REG-246250-96 (1997 C.B. 627) (See § 601.601(d)(2) of this chapter.) will be treated as satisfying the requirements